

**FLATHEAD COUNTY PLANNING BOARD  
MINUTES OF THE MEETING  
SEPTEMBER 14, 2022**

**CALL TO ORDER  
6:00 PM**

A meeting of the Flathead County Planning Board was called to order at 6:00 p.m. in the 2nd Floor Conference Room of the South Campus Building, 40 11th Street West, Suite 200 Kalispell, Montana. Board members present were Sandra Nogal, Verdell Jackson, Kevin Lake, Buck Breckenridge, Greg Stevens, Gary Votapka, Jeff Larsen and Elliot Adams. Erik Mack, Erin Appert, and Zachary Moon represented the Flathead County Planning & Zoning Office.  
There were approximately 19 members of the public in attendance and 5 that joined over Zoom.

**PUBLIC  
COMMENT ON  
ITEMS NOT ON  
THE AGENDA  
(Public matters that  
are within the  
jurisdiction of the  
Board 2-3-103  
M.C.A)  
6:01 PM**

None

**DISCLOSURE OF  
ANY CONFLICT  
OF INTERESTS  
6:01 PM**

Breckenridge stated he would step down on agenda item #6

**EAB HOLDINGS  
LLC  
(FZC-22-12)  
6:01 PM**

A zone change request from Josh Lenderman at Flathead Geomatics, on behalf of EAB Holdings, LLC for property within the Blanchard Lake Zoning District. The proposal would change the zoning on a parcel of land located at 161 Vintage Way, near Whitefish, MT from *AG-20 (Agricultural)* to *SAG-5 (Suburban Agricultural)*. The total acreage involved is approximately 15.76 acres.

**STAFF REPORT  
6:02 PM**

Erik Mack reviewed staff report FZC-22-12 for the board.

**BOARD  
QUESTIONS  
6:12 PM**

Adams asked about the COSA.

Mack clarified.

<b>APPLICANT PRESENTATION 6:04 PM</b>	Josh Lenderman, Flathead Geomatics, 236 Wisconsin Ave, agreed with the staff report.
<b>BOARD QUESTIONS 6:04 PM</b>	None
<b>AGENCY COMMENTS 6:04 PM</b>	There were no public agencies present to comment. Written comments were reviewed in the staff report.
<b>PUBLIC COMMENT 6:05 PM</b>	None
<b>APPLICANT REBUTTAL 6:05 PM</b>	None
<b>STAFF REBUTTAL 6:05 PM</b>	None
<b>BOARD DISCUSSION 6:06 PM</b>	None
<b>MAIN MOTION TO ADOPT F.O.F (FZC-22-12) 6:06 PM</b>	Breckenridge made a motion seconded by Votapka, to adopt Staff Report FZC-22-12 as findings-of-fact.
<b>ROLL CALL TO ADOPT F.O.F (FZC-22-12) 6:07 PM</b>	On a roll call vote the motion passed unanimously.
<b>MAIN MOTION TO RECOMMEND APPROVAL (FZC-22-12) 6:07 PM</b>	Breckenridge made a motion seconded by Adams to recommend approval of FZC-22-12 to the Board of County Commissioners.

**ROLL CALL TO  
RECOMMEND  
APPROVAL  
(FZC-22-12)  
6:07 PM**

On a roll call vote the motioned passed unanimously.

**BLUEMOON  
ESTATES  
(FPP-22-13)  
6:08 PM**

A request from Bluemoon Refinery, LLC with technical assistance from Sands Surveying, Inc., for preliminary plat approval of Bluemoon Estates Subdivision, a proposal to create five (5) residential lots on 25.00 acres. The proposed lots would be served by individual wells and septic systems. The property is located at 1587 W Springcreek Road, Kalispell, MT in the Westside Zoning District and is zoned SAG-5 (Suburban Agricultural).

**STAFF REPORT  
6:08 PM**

Erin Appert reviewed Staff Report FPP-22-13 for the Board.

**BOARD  
QUESTIONS  
6:10 PM**

Votapka asked for clarification about the West Valley LUAC.

Appert explained that the property falls within the West Valley Neighborhood Plan jurisdiction, so the West Valley Land Use Advisory Committee (WVLUAC) reviews the proposal and forwards a recommendation to the planning board.

Adams asked if the variance was not granted who maintains the pavement.

Mack clarified.

Larsen asked about finding #17 and if it met the criteria for the variance.

Appert went through the findings and elaborated on each one.

Votapkpa asked about the requirement for paving.

**APPLICANT  
PRESENTATION  
6:15 PM**

Donna Valade, Sands Surveying, Inc., 2 Village Loop, represented the applicants. She said it's very similar to the subdivision to the north, Legacy Ranch. She spoke about the paving variance and went through a few points. She stated that she had talked to staff at the Road & Bridge Department about how they feel about the dust cost share program vs. paving and how the HOA would participate in that program. She proposed an alternate condition #21 and commented on how it would benefit a greater number of homeowners. The applicant is aware of the dust problem.

**BOARD  
QUESTIONS  
6:20 PM**

Stevens asked if Valade had read the subdivision regulations and was she aware that all the criteria had to be met for the variance. He said they had run into this problem before and asked if the development community, the

engineers, surveyors, and consultants, had given any thought to amending the Flathead County Subdivision Regulations to present to the board.

Valade said they had, and it required a lot of work.

**AGENCY  
COMMENTS  
6:22 PM**

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC  
COMMENT  
6:22 PM**

None

**APPLICANT  
REBUTTAL  
6:23 PM**

None

**STAFF  
REBUTTAL  
6:23 PM**

None

**BOARD  
DISCUSSION  
6:23 PM**

None

**MAIN MOTION  
TO ADOPT F.O.F  
(FPP-22-13)  
6:23 PM**

Nogal made a motion seconded by Votapka to adopt Staff Report FPP-22-13 as findings-of-fact.

**ROLL CALL TO  
ADOPT F.O.F  
(FPP-22-13)  
6:23 PM**

On a roll call vote the motion passed unanimously.

**MOTION TO  
DENY VARIANCE  
(FPP-22-13)  
6:24 PM**

Stevens made a motion seconded by Adams to deny the variance for the road paving for FPP-22-13

**BOARD  
DISCUSSION  
6:24 PM**

Stevens commented that the applicant's representative admitted that the variance does not comply with all the criteria necessary to grant it. He would not vote for it unless he could tie it into all the criteria. The county is starting to get more development as are the cities and it is time to start doing some paving on some of these roads if nothing else at least for the dust abatement.

He spoke about amending the regulations and the board making a recommendation to the commissioners' who could take it or leave it.

Votapka said he agreed with Stevens.

Larsen commented about the subdivision regulations and how they are written puts the board in a difficult situation when it comes to the variance criteria. He felt it was time for the consultant community to step up and bring something in to update the regulations.

Breckenridge agreed with Larsen and spoke about dust abatement.

**ROLL CALL TO  
DENY VARIANCE  
(FPP-22-13)  
6:30 PM**

On a roll call vote the motion passed 7-1 with Nogal dissenting.

**MAIN MOTION  
TO RECOMMEND  
APPROVAL  
(FPP-22-13)  
6:31 PM**

Nogal made a motion seconded by Votapka to recommend approval of FPP-22-13 to the Board of County Commissioner's.

**BOARD  
DISCUSSION  
6:31 PM**

None

**ROLL CALL TO  
RECOMMEND  
APPROVAL  
(FPP-22-13)  
6:31 PM**

On a roll vote the motioned passed unanimously.

**LORI LERNER  
(FZC-22-16)  
6:32 PM**

A zone change request from Lori Lerner, with technical assistance from Sands Surveying, Inc., for property within the Two Bridges Zoning District. The proposal would change the zoning on a parcel of land located at 7180 Highway 2 E, near Columbia Falls, MT from *SAG-10 (Suburban Agricultural)* to *SAG-5 (Suburban Agricultural)*. The total acreage involved is approximately 10.68 acres.

**STAFF REPORT  
6:32 PM**

Zachary Moon reviewed Staff Report FZC-22-16 for the Board.

**BOARD  
QUESTIONS**  
*6:33 PM*

None

**APPLICANT  
PRESENTATION**  
*6:33 PM*

Donna Valade, Sands Surveying Inc., 2 Village Loop, represented the applicants and stated they agreed with the findings and the staff report.

**BOARD  
QUESTIONS**  
*6:34 PM*

None

**AGENCY  
COMMENTS**  
*6:34 PM*

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC  
COMMENT**  
*6:34 PM*

None

**APPLICANT  
REBUTTAL**  
*6:34 PM*

None

**STAFF  
REBUTTAL**  
*6:34 PM*

None

**BOARD  
DISCUSSION**  
*6:34 PM*

None

**MAIN MOTION  
TO ADOPT F.O.F  
(FZC-22-16)**  
*6:34 PM*

Lake made a motion seconded by Stevens to adopt Staff Report FZC-22-16 as findings-of-fact.

**BOARD  
DISCUSSION  
(FZC-11-16)**  
*6:35 PM*

None

**ROLL CALL TO  
ADOPT F.O.F  
(FZC-22-16)  
6:35 PM**

On a roll call vote the motion passed unanimously.

**MAIN MOTION  
TO RECOMMEND  
APPROVAL  
(FZC-22-16)  
6:35 PM**

Adams made a motion seconded by Nogal to recommend approval of FZC-22-16 to the Board of County Commissioner's.

**BOARD  
DISCUSSION  
6:35 PM**

None

**ROLL CALL TO  
RECOMMEND  
APPROVAL  
(FZC-22-16)  
6:35 PM**

On a roll call vote the motion passed unanimously.

**THE  
HOMESTEAD-  
CHINOOK RIDGE  
(FPP-22-10)  
6:36 PM**

A request from Will MacDonald, with technical assistance from Sands Surveying, Inc., and Foley Engineering, for preliminary plat approval of The Homestead-Chinook Ridge, a proposal to create 27 condominium cabins on 47.36 acres. The proposal would be served by a public water system and shared septic systems. The property is located at 4538 and 4542 Mountain Home Road, Whitefish, MT.

**STAFF REPORT  
6:36 PM**

Erin Appert reviewed Staff Report FPP-22-10 for the Board.

**BOARD  
QUESTIONS  
6:37 PM**

Votapka asked if this was the third phase of the Homestead Development.

Appert stated there was a complex history there and the applicant's technical representative may be able to clarify.

**APPLICANT  
PRESENTATION  
6:39 PM**

Will MacDonald, represented the applicants. He stated this is not a third phase and pointed out the proposal on the map. They are trying to take advantage of the topography and create some density for a few amenities such as an equestrian center and a clubhouse. He spoke about the Whitefish Service area meeting and stated they are trying to get a fire station. They will create a fire district solely as a homestead and people can annex into it if they are within the five-mile tract radius. They held a public community outreach meeting, and the proposal was well received by the community. The intent is to call the firehouse the Star Meadows Fire House with ingress and egress onto Star

Meadows Road. It's a mature subdivision, the final plat for phase two was done in 2009. They are trying to focus on cluster housing to take advantage of the topography and create a lot of open space in the development.

**BOARD  
QUESTIONS  
6:42 PM**

Votapka asked if the 27 condo-cabins would be fee simple.

MacDonald clarified.

**AGENCY  
COMMENTS  
6:43 PM**

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC  
COMMENT  
6:43 PM**

None

**APPLICANT  
REBUTTAL  
6:43 PM**

None

**STAFF  
REBUTTAL  
6:43 PM**

None

**BOARD  
DISCUSSION  
6:44 PM**

None

**MAIN MOTION  
TO ADOPT F.O.F  
(FPP-22-10)  
6:43 PM**

Nogal made a motion seconded by Jackson to adopt Staff Report FPP-22-10 as findings-of-fact.

**BOARD  
DISCUSSION  
6:44 PM**

None

**ROLL CALL TO  
ADOPT F.O.F  
(FPP-22-10)  
6:44 PM**

On a roll call vote the motion passed unanimously.



**MAIN MOTION  
TO RECOMMEND  
APPROVAL  
(FPP-22-10)  
6:44 PM**

Lake made a motion seconded by Jackson to forward a positive recommendation for FPP-22-10 to the Board of County Commissioners.

**BOARD  
DISCUSSION  
6:44 PM**

None

**ROLL CALL TO  
RECOMMEND  
APPROVAL  
(FPP-22-10)  
6:45 PM**

On a roll call vote the motion passed unanimously.

**LASALLE RV  
PARK  
EXPANSION  
6:45 PM**

A request from LaSalle RV Park, LLC, with technical assistance from Sands Surveying, Inc., for preliminary plat approval of LaSalle RV Park Expansion, a proposal to create 32 additional RV spaces within an existing RV park on approximately 6.0 acres. The subdivision would be served by public water supply and public wastewater system. The property is located at 5618 Highway 2 West, near Columbia Falls.

**STAFF REPORT  
6:45 PM**

Erin Appert reviewed Staff Report FPP-22-08 for the Board.

**BOARD  
QUESTIONS  
6:48 PM**

Larsen asked if the board needed to delete condition #18.

Mack clarified

Votapka asked about the floodplain permit and if it replaced the requirements from the Army Corps of Engineers.

Mack clarified.

**APPLICANT  
PRESENTATION  
6:50 PM**

Eric Mulcahy, Sands Surveying, Inc., 2 Village Loop, represented the applicants. He said they agree with the staff report and the one issue that was already mentioned. He pointed out the floodplain boundary on the map. He spoke about the base flood elevations and the fact that an RV pad doesn't need an elevation. They would have no impact on flood elevation or increase flooding on a neighboring property. He would like that requirement removed. Other than that, they are in agreement with the conditions in the staff report.

**BOARD  
QUESTIONS  
6:53 PM**

None

**AGENCY  
COMMENTS  
6:53 PM**

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC  
COMMENT  
6:53 PM**

None

**APPLICANT  
REBUTTAL  
6:53 PM**

None

**STAFF  
REBUTTAL  
6:53 PM**

None

**BOARD  
DISCUSSION  
6:53 PM**

None

**MAIN MOTION  
TO ADOPT F.O.F  
(FPP-22-08)  
6:54 PM**

Breckenridge made a motion seconded by Nogal to adopt Staff Report FPP-22-08 as findings-of-fact.

**BOARD  
DISCUSSION  
6:54 PM**

None

**ROLL CALL TO  
ADOPT F.O.F  
(FPP-22-08)  
6:54 PM**

On a roll call vote the motioned passed unanimously.

**MAIN MOTION  
TO RECOMMEND  
APPROVAL  
(FPP-22-08)  
6:54 PM**

Adams made a motion seconded by Jackson to forward a positive recommendation of FPP-22-08 to the Board of County Commissioners.

**SECONDARY  
MOTION  
DELETE  
CONDITION #18  
6:55 PM**

Nogal made a motion seconded by Adams to delete condition #18.

**BOARD  
DISCUSSION  
6:55 PM**

Votapka asked if there were any safety issues by deleting condition #18.

Nogal stated it was her understanding that it was a redundant study and an administrative burden on the owners and doesn't change everything that has to happen. She felt it doesn't take anything away from what has to happen anyway.

Breckenridge commented that it wouldn't change how the RV park would be built, it would just show where the base flood elevation was. Right now they don't know where that is because it's not established.

**ROLL CALL TO  
DELETE  
CONDITION #18  
6:57 PM**

On a roll call vote the motion passed unanimously.

**BOARD  
DISCUSSION  
6:57 PM**

None

**ROLL CALL TO  
RECOMMEND  
APPROVAL  
(FPP-22-08)  
6:58 PM**

On a roll call vote the motion passed unanimously.

**Breckenridge stepped down for this agenda item.**

**RESUBDIVISION  
LOT 1 ASHLEY  
CREEK  
REVISITED  
(FPP-21-07)  
6:59 PM**

A request from Mont & Amanda Peters, with technical assistance from Breckenridge Surveying and Mapping, PLLC, for preliminary plat approval of the Resubdivision of Lot 1 Ashley Creek Revisited, a proposal to create two (2) residential lots on 59.66 acres. The subdivision would be served by individual wells and septic systems. The property is located at 1590 Smith Lake Road.

**STAFF REPORT  
6:59 PM**

Erin Appert reviewed Staff Report FPP-21-07 for the Board.

**BOARD  
QUESTIONS  
7:00 PM**

Larsen asked staff to clarify why this variance complies with the criteria.

Appert clarified.

**APPLICANT  
PRESENTATION  
7:02 PM**

Rick Breckenridge, 2302 Hwy 2 E #6, represented the applicants. He spoke about the variance for paving and showed the roads on the map. He spoke to condition #3 stating he had submitted five subdivisions this year to DNRC for input on fire prevention and fuel reduction plan and had yet to receive any input or an answer. He would like the board to consider an amendment to that

condition. He commented about the DNRC lack of input even though they decided everyone was in the WUI. He read a proposed amendment to that condition.

Stevens asked what the timeframe would be for no response.

Breckenridge thought 30 days was sufficient.

Breckenridge also spoke to condition #17 (b) stating the proposed lots are over 20 acres and he would like that condition amended as both lots are exempt from DEQ approval.

Votapka asked for clarification.

Breckenridge explained.

Other than that, he was pleased with the report.

Votapka asked how much more road was there and how would that affect other people.

Breckenridge pointed it out on the map and stated it goes all the way to Whalebone Drive.

Votapka asked why condition 17 (a) was in there to begin with.

Mack stated it was required and read from the regulations.

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**BOARD  
QUESTIONS  
7:09 PM**

**AGENCY  
COMMENTS  
7:11 PM**

**PUBLIC  
COMMENT  
7:11 PM**

**APPLICANT  
REBUTTAL  
7:11 PM**

**STAFF  
REBUTTAL  
7:11 PM**

**BOARD  
DISCUSSION**

None

None

None

None

**7:11 PM**

**MAIN MOTION  
TO ADOPT F.O.F  
(FPP-21-07)  
7:12 PM**

Stevens made a motion seconded by Jackson to adopt Staff Report FPP-21-07 as findings-of-fact.

**BOARD  
DISCUSSION  
7:12 PM**

None

**ROLL CALL TO  
ADOPT F.O.F  
(FPP-21-07)  
7:12 PM**

On a roll call vote the motion passed unanimously.

**SECONDARY  
MOTION TO  
APPROVE  
VARIANCE  
7:12 PM**

Stevens made a motion seconded by Nogal to approve the variance to the paving requirements for FPP-21-07.

**BOARD  
DISCUSSION  
7:13 PM**

Stevens commented that paving 9.7 feet of the road is an undo hardship due to the fact that it doesn't do anything for anybody. It imposes something on the applicant that has no benefit.

Adams agreed with Stevens.

Larsen commented that it was an undo hardship on the road department to have to try to maintain 11-foot-long strips of pavement. This is a great example to show how ridiculous that paving impact, that was written many years ago by a planning director that he disagreed with, needs to be fixed. The board struggles with this because they are not equitable and not fair and they don't make a lot of sense sometimes.

**ROLL CALL TO  
APPROVE  
VARIANCE  
7:16 PM**

On a roll call vote the motion passed unanimously.

**MAIN MOTION  
TO RECOMMEND  
APPROVAL  
(FPP-21-07)  
7:16 PM**

Stevens made a motion seconded by Lake to forward a positive recommendation to the Board of County Commissioners.

**BOARD  
DISCUSSION  
7:17 PM**

The board and staff discussed changing conditions #3 and #17 at length.

**ROLL CALL TO  
RECOMMEND  
APPROVAL  
(FPP-21-07)  
7:21 PM**

On a roll call vote the motion passed unanimously.

**RICHARD  
JACKSON  
FAMILY TRUST  
(FZC-22-15)  
7:22 PM**

A zone change request from Richard Jackson Family LLC, Richard Jackson Family #2, LLC and Richard Jackson Family #3, LLC, with technical assistance from Sands Surveying, Inc., for properties within the Hodgson Road Zoning District. The proposal would change the zoning on four parcels of land located at 215, 250, 260, and 265 Stageline Drive, near Whitefish, MT from *SAG-10 (Suburban Agricultural)* to *SAG-5 (Suburban Agricultural)*. The total acreage involved is approximately 40.41 acres.

**STAFF REPORT  
(FZC-22-15)  
7:23 PM**

Erik Mack reviewed Staff Report FZC-22-15 for the Board.

**BOARD  
QUESTIONS  
7:25 PM**

None

**APPLICANT  
PRESENTATION  
7:25 PM**

Donna Valade, Sands Surveying, Inc., 2 Village Loop, represented the applicants. She gave a brief history of the property as well as the zoning in the area. She spoke about the CCR's and the Hodgson Road Zoning District. She said the purpose was for estate planning and not commercial development. She spoke to the public comments and stated the majority of the concerns will be reviewed during subdivision review. She also said the lots will be required to go through DEQ review.

**BOARD  
QUESTIONS  
7:29 PM**

None

**AGENCY  
COMMENTS  
7:29 PM**

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC  
COMMENT  
7:30 PM**

Sean Frampton, 530 West 19<sup>th</sup> Street, represented the Stageline Estate Homeowners Association. He stated that what was missing from the analysis from staff was that it was not just a stand-alone piece of property in the county that you would compare to something else. These properties are part of a community, the Stageline Estates Homeowners Association, part of a development. This particular request is only for four lots within that subdivision and not for the subdivision as a whole. It is for one person. It is not for the community, there is no benefit for the community, it is for one person. There is one person who owns 4 lots, and there are 24 lots in that subdivision, it's a single request and it certainly is not for the community at large. He referenced his letter and commented about the strong influence that this particular applicant has on the subdivision. He stated there have been two lawsuits in this subdivision with the applicant. The first one was for not paying dues which went all the way to the supreme court, and last year over him putting up a fence, which they had to sue to get some property back that he was not letting people beyond. He spoke about the Homeowners Association meetings being very contentious and stated when there are amendments to the CCR's they need 75% so he only needs one or two other votes because he owns 4 votes. If this proposal is approved he will have 8 of 24 votes. He spoke about the criteria and whether or not it violates the Growth Policy and the negative impacts on the neighborhood, and that it was not compatible with the neighborhood. The covenants do provide for 4 acre lots but that is not how the community is today. The community is large acre or consistent large acre parcels and people have not subdivided to that 4-acre size. Speaking to the negative impacts to the community, he stated it is all SAG-10. He pointed out the zoning on the map and stated that overall, the community is SAG-10. a lot of the things that are required in the zoning regulations such as transportation, sewer and water, and schools, there is no meaningful change. Because it's for one applicant, a small area, a singular change, and not for the community it creates spot zoning.

Al Kuntz, 150 Stageline Drive, spoke in opposition of the proposal and stated that he agreed with Mr. Frampton.

John Clinch, 111 Stageline Court stated that he agreed with Mr. Frampton and spoke in opposition of the proposal. He spoke about the CCR's and the size of the lots as well as the contentious nature of the applicant.

Robert Karvelsson, 200 Stageline Drive, spoke about the closing off of the cul-de-sac and spot zoning. He was in opposition of the proposal.

Duane Markinson, 195 Stageline Drive, spoke in opposition of the proposal. He spoke about the size of the properties in the neighborhood and the increase in density if the proposal were approved. He also spoke about the traffic, water, sewer, and noise.

Robyn Christenson, 196 Stageline Drive, spoke in opposition of the proposal. She stated the CCR's are unique and elaborated on that. She also spoke about the HOA meeting and the members concerns. She agreed with all the speakers before her.

Cyndi Olson, 110 Stageline Court, spoke in opposition of the proposal. She talked about the CCR's and the current zoning. She also spoke about the contention from the applicant.

**APPLICANT  
REBUTTAL  
7:50 PM**

Valade stated that a zone change does not create any additional lots. It would change the minimum lot size and SAG-10 to SAG-5 has been determined to be very similar so it would not constitute spot zoning. She spoke about the concerns of the neighbors and the sizes of the lots within the surrounding neighborhoods.

**STAFF  
REBUTTAL  
7:51 PM**

None

**BOARD  
DISCUSSION  
7:51 PM**

Stevens asked Frampton about spot zoning and the elements of that. He commented that he didn't hear him mention that the zoning uses don't differ hardly at all.

Frampton said that is true.

Stevens said covenants are private agreements between individuals as opposed to zoning and commented that Flathead County stays away from enforcing covenants. He spoke about a lawsuit and commented that they don't talk about covenants as they are a private agreement but zoning is government policy and government policy is always subject to change.

Frampton said he spoke about the Growth Policy and the analysis he felt the board has to employ is that it is already SAG-10, and the applicants have a burden to change it from 10 to 5. On what basis could they possibly want a change, and if it is for a singular purpose for a private benefit for one person that is spot zoning within this greater area that is all SAG-10. For that reason, the use is different than the prevailing zoning. As far as government policy vs. private contract, the difference is that in the Growth Policy it specifically talks about neighborhoods and the community and what's best for the community. They didn't meet the burden. These people say it's not in their best interest in the community. There is no meaningful change to go from 24 to 28 lots, it will not affect the schools or sewer and stuff like that. They are negatively going to impact the neighborhood and/or the community.

Stevens said the uses don't differ. They are listed and are substantially the same between SAG-10 and SAG-5.



Frampton and Stevens discussed a few elements of the Growth Policy at length.

Nogal asked Mr. Kuntz how long he has lived in the neighborhood and how he had decided to live in the area, was it sold as large lots. She wanted to know what people thought when they were buying in.

Kuntz responded that he did buy in that area due to the large parcels.

Nogal asked Valade what the parcels were designed as. She wanted some history.

Valade stated the Certificate of Survey that created Mr. Jacksons parcels was platted in 1986. There is also a Stageline Estates Subdivision which is different from these parcels. She pointed out on the map that these properties are not part of that subdivision.

Larsen asked if the parcels were all tied together with covenants for Stageline Estates.

A member of the audience said yes, they were.

Adams asked Kuntz if the CCR's allowed more votes depending on how many parcels of land they own.

Kuntz said it was one vote per parcel and spoke about amending the CCR's and the bylaws.

Votapka asked Kuntz how many lots had been subdivided or split since 1996.

Kuntz said there had been a couple that had been split unbeknownst to them. The Architectural Review Committee had not been informed.

Breckenridge asked when Hodgson Road Zoning District was created.

Valade said October 15, 1990.

Breckenridge asked if it was SAG-10 when the district was created.

Mack pointed it out on the map and showed the zoning layers.

Breckenridge asked if the lots that were less than 10 acres were prior to zoning.

Mack gave examples of how they could have been created.

Stevens asked Valade how many non-conforming lots that are less than 10 acres did she identify.

Valade stated 6 out of 16 were non-conforming.

Stevens clarified that 6 out of 16 that responded via comment letters against the proposal were already non-conforming.

Votapka asked staff about words mentioned in the Growth Policy, specifically community and neighborhood, and are they defined.

Mack pulled up the Growth Policy and searched those words. He read the definition of community.

Votapka asked if this area was in a specific neighborhood plan.

Mack said it is not in a neighborhood plan area and most of the discussion in the Growth Policy about neighborhoods is specific to neighborhood plans that we have already adopted.

**MAIN MOTION  
TO ADOPT F.O.F  
(FZC-22-15)  
8:11 PM**

Stevens made a motion seconded by Lake to adopt Staff Report FZC-22-15 as findings-of-fact.

**BOARD  
DISCUSSION  
8:11 PM**

None

**ROLL CALL TO  
ADOPT F.O.F  
(FZC-22-15)  
8:11 PM**

On a roll call vote the motion passed unanimously.

**MAIN MOTION  
TO RECOMMEND  
APPROVAL  
(FZC-22-15)  
8:12 PM**

Stevens made a motion seconded by Jackson to approve Staff Report FZC-22-15 and recommend approval to the Board of County Commissioners.

**BOARD  
DISCUSSION  
8:12 PM**

Stevens commented that he really gets hesitant and nervous when they start talking about the covenants and Homeowners Associations. He said they are private matters that do not concern the planning board and do not concern the legislative functions of the county. They are private agreements that go through the courts and not through government agencies. What he hears

tonight is a dispute between the signees of the covenants and he really hates getting involved in that as it muddies the waters as far as his concerns. He spoke about lot sizes vs. use and his opinion was that it was not spot zoning. He spoke about property values and what impacts them. He also spoke about the emotions from the adjacent property owners. He felt this was an appropriate zone change and will vote in favor.

Adams commented that he thought it was a frustrating, messy situation but that he couldn't see a reason to deny the zone change. He felt it was appropriate for the area. He commented about CCR's and stated that he didn't see a reason to deny the zone change.

Breckenridge pointed out that all three criteria need to be met in order for something to be considered spot zoning so if it fails any one of those it is not spot zoning. He also mentioned that the uses for SAG-10 and SAG-5 are almost identical although the density is different. He pointed out that other sizes of properties that are not only within a general radius but also within this unique pocket community, there are properties less than 10 acres that are non-conforming and that's another strike against spot zoning. He supports the zone change. He said a lot of the comments assumed that this was already subdivided but that hasn't happened yet, that would go through a different process.

Jackson stated he would support the zone change. He spoke about property rights and his own experiences with neighbors. He also spoke about covenants and who enforces them. He commented that the applicants have a right to do this.

Nogal said she doesn't support the zone change because when there is a perceived understanding of what a community is, she felt that was a property right of the people that live there. She could only imagine the heartache this is causing the people that live there knowing that this wasn't what was really designed for it. The property right is that you have the property right to own it and develop it based on what you bought it as. She didn't feel it was appropriate to divide the land without consideration of the surrounding community. She didn't feel this was a good idea. She spoke about the contentious relationship between the applicant and the HOA. She commented that this would change the nature of the community they bought in to.

Larsen stated he typically didn't have a problem going from SAG-10 to SAG-5, they've approved a lot of those. He said the Growth Policy is a non-regulatory document. He commented that people can pick out the policies they like for their side and the other side can do the same. The county has a really strong property rights section in the Growth Policy and the board would need a compelling need to limit that right. This is a little bit unique to him because he looks at whether or not it's within the character of the area and

these people have a community where they try to work together and they are tied together with covenants. It bothers him to plop this SAG-5 right here. He understands what the other board members are saying but he didn't know if he would vote for it because of that. He commented that the neighbors had made comments to the board about their community that made him think they had this community there and they are all in this together. He hasn't decided how he will vote.

**ROLL CALL TO  
RECOMMEND  
APPROVAL  
(FZC-22-15)  
8:28 PM**

On a roll call vote the motioned passed 5-3 with Larsen, Nogal, and Breckenridge dissenting.

**OLD BUSINESS  
8:36 PM**

Ian McKay, the Deputy Airport Director, was here to engage the board to determine what the appropriate avenue would be for the Airport Director, the board and himself would be to discuss zoning the area near the airport. He spoke about a pilot shortage and the national reduction in overall air service. He gave the board some statistics and stated they need to come together to implement control measures around the airport. They have to protect what they have now because if they lose it, they will never get it back. There are three elements within the compatible land use that most negatively affect the airport: wildlife attractants, noise, and obstructions. He spoke about engine performance and non-stop service as well as the price of the tickets going up. The county has been required to implement some kind of land use measures under MCA 67.7 for over ten years and they want to partner with the board to help the county achieve compliance with that to protect the airport and the community. This is a very complicated issue; they are developing a draft text amendment to the FCZR and want to solicit the boards input. They would like to hold a workshop with the board.

Jackson stated they discussed this in the past and elaborated on what they talked about. He didn't know the mechanics of doing the zoning, but they talked about it.

McKay clarified.

Breckenridge asked if they have a draft.

McKay said yes.

Breckenridge said the format needs to be the same as the rest of the zoning districts.

Stevens said to look at the definitions.

The board discussed definitions.

Mack said they have the airport overlay zone that doesn't apply to anything yet, that would be a good place to look at too.

Stevens asked what the ETA for terminal completion was.

Daniel Reimer, Director of Development for GPI, said it will be multi-phased with the first chunk being open sometime next year in 2023, another chunk in 2024 and then final completion will probably be mid-2025.

Nogal said they have handled it beautifully.

Larsen said he would like to put it in the queue for a time when the board can sit down with them.

Adams asked if they needed a certain amount of time to look over things.

McKay said they are ready to go.

Votapka asked if there were any issues that were driving this or were they looking out on the horizon.

McKay clarified.

Larsen said they talked about it in past years and have never done anything.

Larsen said they could tentatively plan on adding it to the November docket for a workshop.

Mack said he handed out short term rental information for the board last month and asked if we could send it in the next packets again.

**NEW BUSINESS  
8:53 PM**

Larsen said he would like to hold an informal meeting with the people in Lakeside and said they would have to have discussions about the workplan.

Mack said he received an email about some possible closed legislation that would require a county of over 50,000 to develop a comprehensive plan instead of a Growth Policy. They function similarly but one of the requirements would be a future land use map. He would like to work on an update for the Growth Policy but if this gets passed in 2023, they will have to turn around and do a whole comprehensive plan instead. He felt they should wait a few months and see what happens.

Larsen asked about the timeframe for updating the Growth Policy.

Mack said there have been a few updates over the years, so we are up to date.

Larsen said he was invited to be on that task force, and he participated in the first couple sessions and they started pushing the future land use map. He told them he doesn't support a future land use map; they tried that in Flathead County, and we are not an urban county, it was an impossible task, and he didn't want them forcing that on us. He spoke at length about how they felt that if we have a future land use map there won't be any contention. He gave an example of the West Glacier RV Park being in the neighborhood plan and said they are trying to force a volunteer board to rewrite their neighborhood plans. The board discussed this at length.

Larsen didn't want to schedule a discussion with Lakeside in October but would like to try for December.

Lindsey Hromadka, 116 Lupfer Ave, Unit B, Whitefish, said December is fine and she looks forward to talking to the board then. She asked if there was something they can provide for the meeting to help the workshop be as effective as possible.

Larsen said the map they provided was a good starting point.

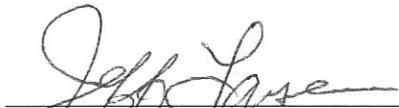
Breckenridge suggested they look at the zoning districts and how they are written and be consistent with the formatting.

Larsen said he would like to talk about the neighborhood plan as it's outdated and that's a problem with a lot of the neighborhood plans. Zoning needs to be written in compliance with the Growth Policy. These things concern him. He spoke about the Growth Policy being out of date because the neighborhood plans are out of date. They should look at the neighborhood plan when they are getting ready to discuss things with the board.

He lives in Lakeside and there has been significant changes since 2010.

**ADJOURNMENT**  
**9:04 PM**

Meeting was adjourned on a motion made by Nogal seconded by Votapka at approximate 9:05 pm. The next meeting will be held on October 12, 2022.

  
\_\_\_\_\_  
Jeff Larsen, Chairman

  
\_\_\_\_\_  
Mary Metzger, Recording Secretary

*APPROVED AS SUBMITTED/CORRECTED: 10/12/2022*